

Home and Community Based Settings



**PRESENTATION
CENTERS FOR MEDICAID AND MEDICARE
FINAL RULE**

Presentation will cover:

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- HCBS Final Rule 42 CFR Parts 430, 431, 435, 436, 441 and 447
- How Washington measures up
- Modifications to requirements in provider owned settings including evidence for settings presumed to be institutional
- Washington's Transition Plan

Intent of Final Rule

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To ensure that individuals receiving long-term services and support have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate

Integration in the community

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The setting is integrated in and supports full access of individuals to the greater community, including opportunities to:

- Seek employment and work in competitive integrated settings,
- Engage in community life,
- Control personal resources, and
- Receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS

Choice

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- Setting and provider is selected by the individual from all available alternatives, including non-disability specific settings and an option for a private room.
- Facilitates individual choice regarding services and supports, and who provides them.

Choice

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Freedom to:

- Furnish or decorate sleeping or living unit
- Control schedule and activities and have access to food at any time
- Have visitors of their choosing at any time

RCW 70.129.140 (2), RCW 70.129.100, RCW 70.129.050

Rights

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The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

Dignity, respect and free of restraints RCW 70.129.005, RCW 70.129.120

Independence

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- The setting optimizes and does not regiment the individual's:
 - Initiative
 - Autonomy
 - Independence in making life choices, including:
 - ✦ daily activities,
 - ✦ physical environment and
 - ✦ with whom to interact
- Setting is physically accessible to the resident

Rights

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The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity.

Privacy

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Each individual has privacy in their sleeping or living unit:

- Units have entrance doors that can be locked by the individual with only appropriate staff having keys to doors
- Individuals have a choice of roommates in the setting

Modifications to the Rules

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Criteria to modify setting requirements :

- Be based on an assessed need and justified in the service plan
- Be used only after positive supports have been used and documented
- Less intrusive methods have been tried and documented
- Include data collection measures and documents ongoing effectiveness of the modification

Modifications to the Rules

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Criteria to modify setting requirements : cont.

- Include established timeframes for reviewing continued need for modification
- Include informed consent of the resident
- Include assurance that the modification will do no harm to the resident

Special Note About Delayed Egress

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- Must be individually based
- Documented in the Care Plan
- Need must be reviewed periodically
- Must have appropriate signage by the door
- People who don't require delayed egress should not be restricted from exiting the building
- Secured courtyard/outdoor area

Settings Presumed to be Institutional

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CMS presumes settings to have the qualities of an institution when they are:

- Located in building that provides inpatient institutional treatment or
- Located on the grounds of or adjacent to a public institution or
- Settings that isolate the resident from the broader community of individuals not receiving Medicaid HCBS
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Settings Presumed to be Institutional

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Evidence in the Transition Plan must:

- Show how these facilities protect the fundamental rights of freedom, dignity, control of daily routines, privacy, and community integration
- Include stakeholder input, especially from residents

Settings Presumed to be Institutional

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HCS staff have conducted site visits and interviews with identified residential and adult day service settings. Information was gathered about:

- Choice in setting
- Community involvement
- Choice in roommates
- Choice in schedules
- Choice in food and who one eats with
- Freedom to have visitors at any time

Survey & Investigation

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- Residential Care Services is currently reviewing all facility survey tools to identify compliance changes
- Stakeholders from all facility types will be kept abreast of changes via:
 - Professional websites
 - Dear provider updates
 - Presentations/meetings with associations

Transition Plan

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Assessment Process: Includes the state's assessment of the extent to which its regulations, standards, policies, licensing requirements, and other provider requirements ensure settings comport with the regulation.

- Systemic Review
- Site Specific Assessments
- Provider Assessments
- Settings Presumed Not to be HCB
- Summary

From CMS presentation dated 9/11/14

Transition Plan

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Remedial Strategy: Describes actions the state proposes to assure initial and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and deliverables.

- Proposing new state regulations or revising existing ones
- Revising provider requirements
- Conducting statewide provider training on the new state standards.

Transition Plan Time Frame

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- Submitted Statewide Transition Plans must include a time frame and milestones for state actions, including assessment and remedial actions.
- If state standards must be modified in order to effect changes in the state system, the state should propose a reasonable time frame for making the modifications.

From CMS presentation dated 9/11/14

Washington's Transition Plan TimeLine

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- Through end of October- gather stakeholder and Tribal input for draft transition plan
 - October 23 -Tribal Consultation
- November - complete draft transition plan
- December- post plan for 30 day public comment
- December/January- gather public feedback and make any revisions to transition plan
- January- Submit transition plan to CMS and repost for public view

Comments and Suggestions

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Please send comments and suggestions to:

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<http://adsaweb:85/stakeholders/hcbs/>